

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number LANDAU GOTTFRIED & BERGER LLP JOHN P. REITMAN (State Bar No. 80579) LISA N. NOBLES (State Bar No 233723) 1801 Century Park East, Suite 1460 Los Angeles, California 90067 Telephone: (310) 557-0050 Facsimile: (310)557-0056	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: David J Prenatt Debtor(s).	CASE NO.: 09-14163-RR

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: 5/25/10	Time: 10:00 a.m.
Location: U.S. Bankruptcy Court, 1415 State Street Courtroom 201, Santa Barbara, CA 93101	

Type of Sale: ☐ Public ☒ Private Last date to file objections:
5/11/10

Description of Property to be Sold: 219 West Yanonali Street, Santa Barbara, CA. Single Family Residence
Approximately 1,200 Square Feet

Terms and Conditions of Sale: As is, with all Faults. No representations or warranties. No contingencies.
All cash, to close within 15 days after entry of sale order.

See Exhibit A - Binding Offer To Purchase Real Property

Exhibit B -- Notice of Motion for Authority to Sell 219 West Yanonali Street, Santa Barbara Free and Clear of All Liens,
Claims and Encumbrances

Proposed Sale Price: \$925,000.00 Pending

Overbid Procedure (If Any): Minimum overbid is \$960,000; then in increments of \$15,000. Per Motion: Completed Binding Offer to
Purchase Real Estate Form; immediately available funds equal to 3% of overbid, and proof of financial ability
to complete sale must be received by trustee's counsel by no less than 2 business days prior to hearing (sale) date.
If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

LANDAU GOTTFRIED & BERGER LLP
JOHN P. REITMAN, Lisa N. Nobles
1801 Century Park East, Suite 1460
Los Angeles, California 90067
Telephone: (310) 557-0050 Facsimile: (310)557-0050

Date: 5/4/10

EXHIBIT A

BINDING OFFER TO PURCHASE REAL PROPERTY

The undersigned (the "Offeror") hereby submits this Binding Offer to Purchase Real Property (the "Offer"), pursuant to which Offeror offers to purchase from Thomas P. Jeremiassen, as Chapter 11 Trustee (the "Trustee") for the bankruptcy estate of David J. Prenatt Estate Financial, Inc. (the "Debtor"), the real property together with all improvements commonly known as 219 West Yanonali Street, Santa Barbara, California, California (the "Property") and more particularly described in that certain Motion For Authority To Sell 219 West Yanonali Street, Santa Barbara Free and Clear of Liens, Claims and Encumbrances [etc.] the "Motion"), filed on April __, 2010, in the Debtor's Chapter 11 bankruptcy case pending in the United States Bankruptcy Court for the Central District of California – Northern Division (the "Bankruptcy Court") under Case No. 109-14163-RR .

The offer price for the Property shall be \$ _____ (the "Purchase Price") in cash and there are no contingencies to this Offer whatsoever, including inspection, due diligence or financing contingencies and shall otherwise be on terms identical to those set forth in the "Counter-Offer" attached to the Motion (the "Sale Agreement"). Offeror has attached to this Offer evidence of Offeror's financial ability to consummate this transaction as an all cash transaction. The undersigned hereby expressly acknowledges that this Offer is irrevocable by the undersigned , but subject to acceptance by the Trustee, approval by the Bankruptcy Court, and to other bids determined by the Trustee to be higher and/or better bids.

Notwithstanding anything to the contrary herein, in the Motion or in the Sale Agreement, Offeror understands that the sale is "as is," "where is" and "with all faults," with no warranty or recourse whatsoever. In that connection, Offeror hereby further acknowledges and accepts that the Trustee hereby disclaims the implied warranties of merchantability or fitness for any particular purpose. Offeror represents and warrants to the Trustee that Offeror has completed all due diligence which Offeror believes to be required or appropriate in connection with Offeror's decision to make this Offer and proceed with any purchase of the Property and has not relied upon any statement or representation from the Trustee, his attorneys, his real estate brokers or any other agents. Any necessary testing or repairs, including without limitation those for termite damage or retrofitting required by any governmental entity, shall be the sole responsibility of the Offeror, at Offeror's sole expense.

Offeror is providing herewith a cashiers check in the sum of \$ _____ (the "Deposit") as a deposit against the Purchase Price for the Property, made payable to "Thomas P. Jeremiassen, Trustee" The Deposit shall be non-refundable in the event that the Bankruptcy Court confirms the sale of the Property to the Offeror but Offeror breaches Offeror's obligations under this Offer, in which event the Trustee shall have the right to retain the Deposit and be free to sell the Property to a third party(ies). Offeror's sole remedy in the event that the Trustee fails close the transaction contemplated by this Offer shall be the return of the Deposit in full. If the Offeror performs in full under the terms of this Offer, but the Bankruptcy Court confirms the sale of the Property to another bidder, the deposit shall be refunded to Offeror in full.

Offeror agrees to enter into escrow instructions with the Trustee providing for an escrow arrangement at an escrow company designated by the Trustee and terms and provisions

consistent with this Offer. Offeror acknowledges having obtained a copy of the listing agreement, the Sale Agreement and the Motion (all of which are incorporated herein by this reference) and understands all of their terms.

Offer further acknowledges and agrees that the Bankruptcy Court shall have exclusive jurisdiction to resolve and determine any and all disputes arising out of this Offer or the transaction contemplated herein and Offeror hereby consents and submits to such exclusive jurisdiction.

Offeror also hereby acknowledges and agrees that if Thomas P. Jeremiassen accepts this Offer or otherwise enters into an agreement to sell the Property to Offeror (an "Overbid Agreement"), he will be doing so solely in his capacity as Chapter 11 Trustee for the Debtor and that in the event of any default in the performance of any of the Trustee's obligations under any such Overbid Agreement or in the event that any other claim is asserted against the Trustee or the Debtor in connection with any Overbid Agreement, Thomas P. Jeremiassen shall in no event have any personal liability whatsoever (whether in his individual capacity or otherwise), it being expressly understood and agreed that Offeror's sole recourse, if any, in such event shall be to the assets of the Debtor.

The Bankruptcy Court has previously approved a 5% real estate broker's commission in connection with the listing of the Property for sale by Coldwell Banker. A commission of not more than 2.5% of the Purchase Price shall be payable to Offeror's real estate broker, subject to approval of the Bankruptcy Court, but only upon closing of a sale to Offeror pursuant to this Offer.

[signature page attached]

Dated: _____

(Name of offeror)

(street address)

(city, state, zip code)

(telephone number)

(signature of authorized agent
of offeror, if applicable)

Exhibit A

(name and title of agent of offeror,
if applicable)

(name of real estate brokerage
of offeror)

(name of real estate agent
of offeror)

(telephone no. of real estate
agent of offeror)

Exhibit A

DOCS_SF:63459.1

EXHIBIT B

LANDAU GOTTFRIED & BERGER LLP
JOHN P. REITMAN (State Bar No. 80579)
LISA N. NOBLES (State Bar No. 233723)
1801 Century Park East, Suite 1460
Los Angeles, California 90067
Telephone: (310) 557-0050
Facsimile: (310) 557-0056

Attorneys for Thomas P. Jeremiassen,
Chapter 11 Trustee

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA,
NORTHERN DIVISION

In re:

DAVID J. PRENATT,

Debtor.

Case No.09-14163-RR

Chapter 11

**NOTICE OF MOTION FOR AUTHORITY
TO SELL 219 WEST YANONALI STREET,
SANTA BARBARA FREE AND CLEAR OF
LIENS, CLAIMS AND ENCUMBRANCES
FILED ON APRIL 28, 2010**

Hearing Date:

DATE: May 25, 2010

TIME: 10:00 a.m.

PLACE: Courtroom 201
1415 State Street
Santa Barbara, CA 93101
[Judge Riblet]

1 **TO DEBTOR DAVID J. PRENATT, MARIA PRENATT, ALL PERSONS ENTITLED TO**
2 **NOTICE, ALL POTENTIAL LIEN HOLDERS OF RECORD AND THE OFFICE OF THE**
3 **UNITED STATES TRUSTEE, AND THEIR RESPECTIVE ATTORNEYS OF RECORD, IF**
4 **ANY:**

5 **PLEASE TAKE NOTICE** that on the 10:00 a.m. calendar on May 25, 2010, in Courtroom 201
6 of the United States Bankruptcy Court, located at 1415 State Street, Santa Barbara, California 93101, the
7 Honorable Robin Riblet, United States Bankruptcy Judge, will conduct a hearing on the motion (the
8 "Motion") filed on April 28, 2010 by Thomas P. Jeremiassen (the "Trustee"), chapter 11 trustee of the
9 bankruptcy estate (the "Estate") of debtor David J. Prenatt ("Prenatt"), for an order that does each of the
10 following:

11 (1) Approves the Counter-Offer (the "Sale Agreement") attached to the Motion as
12 **Exhibit 1**, and the Trustee's sale of the real property located at 219 West Yanonali Street, Santa Barbara,
13 California (the "Property") to Leroy, Lena and Anna Scharfeld (collectively, the "Scharfelds") for the
14 sum of \$925,000.00 (the "Purchase Price") in cash. As required by Local Bankruptcy Rule 6004-19 (c),
15 the Scharfelds' address is 959 Debra Dr., Santa Barbara, California 93110. The Property is being sold
16 "As-Is" and without any representations or warranties whatsoever, except that the Trustee will have the
17 right to transfer the Estate's interest therein.

18 (2) Directs that the Trustee's sale of the Property is free and clear of all monetary
19 liens, claims and encumbrances of record as reflected in **Exhibit 3** to the Motion, with the undisputed
20 monetary liens, claims and encumbrances of record, escrow fees and sales commissions to be paid from
21 the sale proceeds and any disputed liens, claims and encumbrances of record, escrow fees and sales
22 commissions to attach to the remaining proceeds of the sale.

23 (3) Approves the following overbid procedure on the sale of the Property:

24 (a) Any initial overbid must be made in an amount not less than \$35,000.00
25 greater than the Purchase Price (i.e., the initial overbid must be not less than \$960,000.00);

26 (b) Any initial overbid must be made in a fully executed writing in the form
27 attached to the Motion as **Exhibit 2** (the "Overbid Form") and must be delivered to (and received by) the
28 Trustee or his counsel not less than two business days prior to the hearing on the Motion;

Exhibit B

(c) Any initial overbid must be accompanied by the concurrent delivery to the Trustee of a deposit in the sum of 3% of the overbid in immediately available funds and financial statement or other financial information, the authenticity of which is verified under penalty of perjury, sufficient to demonstrate to the Trustee and the Bankruptcy Court that the proposed over-bidder has sufficient financial resources to complete the sale on the terms specified in the overbid;

(d) In the event that the Trustee receives multiple overbids, all subsequent overbids must be made in court at the hearing on the Motion, must be made in minimum increments of \$15,000.00 and must be accompanied by a fully executed Overbid Form;

(e) Any sale at overbid will be "As Is" and with no contingencies or warranties whatsoever;

(f) Any sale at overbid must close escrow within 15 days after the order approving such sale is entered by the Bankruptcy Court; and

(g) If a successful over-bidder fails to timely close escrow through no fault of the Trustee, then the Trustee shall be entitled to retain the entire overbid deposit without recourse by such over-bidder.

(4) Approves each of the terms of the Sale Agreement and the Overbid Form, and determines that the Sale Agreement and the Overbid Form are in the best interests of the Estate, that the sale is made for fair market value and in good faith and that the buyer is buying the Property in "good faith" as that term is used in 11 U.S.C. § 363(m), for reasonable value, and on reasonable notice;

(5) Authorizes A&A Escrow Services to pay from escrow all property taxes (and penalties) and other monetary liens, claims and encumbrances of record against the Property, escrow fees and sales commissions¹, as approved by the Trustee. To the extent that a dispute exists as to the validity, amount and/or priority of such liens, claims and encumbrances of record, escrow fees or sales commissions, the same shall attach to the remaining balance of the sale proceeds and shall be determined by the Court following the close of escrow;

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¹ The commission on the sale of the Property to the Scharfelds at the Purchase Price is 2.5%; the commission on any overbid is 5%.

1 (6) Directs the Trustee to place the remaining balance of the net proceeds in a
2 segregated, interest bearing account pending a determination of the validity, amount and/or priority of
3 the disputed liens claims and encumbrances of record, escrow fees or sales commissions against those
4 proceeds; and

5 (7) Determines that adequate notice of the Motion was given.

6 The Motion is made pursuant to 11 U.S.C. § 363(b), Federal Rules of Bankruptcy
7 Procedure 2002 and 6004, and Local Bankruptcy Rule 9013-1 on the grounds that the sale of the
8 Property to the Scharfelds, or to an over-bidder making the highest acceptable bid for the Property, is in
9 the best interests of the Estate. As discussed in the Motion, the Scharfelds are not creditors of the Estate
10 and have represented to the Trustee that they have no connection with Prenatt. To the best of the
11 Trustee's knowledge, the Scharfelds are disinterested. The Trustee is unsure as to the tax consequences
12 to the Estate at this time.

13 **NOTICE IS FURTHER GIVEN** that the sale of the Property to the Scharfelds is subject to
14 overbid. As specified in ¶ 3 of this Notice, the Trustee will request that the Court approve and direct
15 that the minimum overbid is \$960,000.00 (i.e., \$35,000.00 more than the proposed sale price to the
16 Scharfelds). Any person who wishes to qualify as a bidder must deliver to the Trustee's counsel, John
17 P. Reitman or Lisa N. Nobles of Landau, Gottfried & Berger LLP, 1801 Century Park East, Suite 1460,
18 Los Angeles, California 90067, (a) a fully executed Overbid Form and a cashier's or bank certified
19 check in the amount of \$28,800.00 (i.e. 3% of the minimum overbid) and (b) evidence to demonstrate
20 that such bidder is likely to have the financial resources to complete the purchase of the Property, so that
21 the same are received by the Trustee's counsel no later than two business days prior to the hearing on
22 this Motion. If multiple overbids are received, the Court will conduct an auction among the bidders at
23 the date and time set for the hearing on this Motion. For additional information on the overbid
24 procedures that apply, contact John P. Reitman or Lisa N. Nobles at (310) 557-0050.

25 The Motion is based on: (1) the Memorandum of Points and Authorities attached to the Motion,
26 (2) Declarations of John P. Reitman (with Request for Judicial Notice) attached to the Motion, (3)
27 Declarations of Thomas P. Jeremiassen, Elisa Atwill and Leroy Scharfeld (all attached to the Motion),
28

Exhibit B

and (4) exhibits filed with the Motion, and the pleadings on file with the Court and upon such other argument or evidence as may be introduced at the hearing.

Pursuant to Local Bankruptcy Rule 9013-1(f), any objection to this Motion must be in writing, and must be filed with the Court and served upon counsel for the Trustee and the Office of the United States Trustee no later than 14 days before the date set for the hearing at the addresses set forth below and must include a Memorandum of Points and Authorities and competent evidence in support of the objection:

For Filing With The Court

United States Bankruptcy Court
1415 State Street
Santa Barbara, California 93101

For Service on the Office of the United States Trustee

Office of the United States Trustee
128 East Carillo Street
Santa Barbara, California 93101

For Service on the Trustee

Thomas P. Jeremiassen, Trustee
c/o John P. Reitman, Esq.
Lisa N. Nobles, Esq.
Landau Gottfried & Berger LLP
1801 Century Park East, Suite 1460
Los Angeles, CA 90067
Email: jreitman@lgbfirm.com
Email: lnobles@lgbfirm.com

NOTICE IS FURTHER GIVEN that pursuant to Local Bankruptcy Rule 9013-1(h), the failure to timely file and serve an objection not less than 14 days before the hearing date may constitute a waiver of such objection and consent to the relief requested herein.

Respectfully submitted,

DATED: May 4, 2010

LANDAU, GOTTFRIED & BERGER LLP

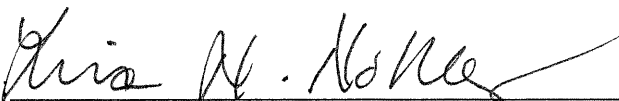
By 
Lisa N. Nobles
Attorneys for Thomas P. Jeremiassen, Chapter 11
Trustee of the Bankruptcy Estate of David J. Prenatt

Exhibit B

In re: David J. Prenatt, Debtor(s).	CHAPTER 11 CASE NUMBER 9:09-bk-14163-RR
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
Landau Gottfried & Berger LLP
1801 Century Park East, Suite 1460
Los Angeles, CA 90067

A true and correct copy of the foregoing document described:

NOTICE OF SALE OF ESTATE PROPERTY

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On May 4, 2010 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Howard Mark Becker hbecker@bbrlawfirm.com
Leslie A Cohen leslie@lesliecohenlaw.com, jaime@lesliecohenlaw.com
Brian D Fittipaldi brian.fittipaldi@usdoj.gov
Gina Giang ggiang@sheppardmullin.com, sstevenson@sheppardmullin.com
Jonathan Gura jon@msmlaw.com, cheryl@msmlaw.com
David F Makkabi cmartin@pprlaw.net
Paul F Ready tamara@farmerandready.com
Joseph M. Sholder sholder@g-tlaw.com
Timothy J Silverman tim@sgsslaw.com
Peter Susi cheryl@msmlaw.com, peter@msmlaw.com
United States Trustee (ND) ustpreion16.nd.ecf@usdoj.gov

☐ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL(indicate method for each person or entity served):

On May 4, 2010 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

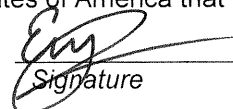
☒ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____ I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

May 4, 2010 Emily Borman
Date Type Name


Signature

In re: David J. Prenatt, Debtor(s).	CHAPTER 11 CASE NUMBER 9:09-bk-14163-RR
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II. SERVED BY U.S. MAIL

Honorable Robin Riblet
United States Bankruptcy Court
1415 State Street
Santa Barbara, CA 93101-2511

Chapter 11 Trustee

Thomas P Jeremiassen
LECG LLC
2049 Century Park East 2300
Los Angeles, CA 90067-3125

Creditors

Tom Curry Roofing and Waterproofing, Inc.
517 E. Cota
Santa Barbara, CA 93103

Sweet Custom Builders Inc.
27 W Anapamu, Suite 145
Santa Barbara, CA 93101

Kavoian and Assoc
1940 Tollis Ave
Santa Barbara, CA 93108

Hill Trager & Colton LLP
800 Presideo Ave
Santa Barbara, CA 93101

County of Santa Barbara Tax
105 East Anapamu Street
Santa Barbara, CA 93101-6052

BAC Home Loans Servicing
7105 Corporate Drive
Plano, TX 75024-4100

Adam Bronfman/ Edgar Bronfman
Kingston, Martinez & Hogan LLP
Bruce W Hogan
1300 Santa Barbara St
Santa Barbara, CA 93101

Mortgage Electronic Registration Systems
1818 Library Street, Suite 300
Reston, VA 20190

Parties in Interest

Elisa Atwill
Coldwell Banker
1290 Coast Village Rd.
Santa Barbara, CA 93108

Leroy, Lena and Anna Scharfeld
959 Debra Drive
Santa Barbara, CA 93110